

Remarks

Claims 1, 2, 4, 5, 9, and 12 to 20 are pending.

As a first matter, the Examiner incorrectly states that “the application currently names joint inventors”. The Examiner is requested to correct this statement in the next office action.

The Examiner rejected claims 1, 2, 4, 5, 9, and 12 to 20 as allegedly unpatentable under 35 U.S.C. § 103(a) over Nakatani *et al.* (U.S. Patent App. Pub. No. 2004/0110813) in view of Donsbach *et al.* (U.S. Patent App. Pub. No. 2003/0130331) in further view of Lacourciere *et al.* (American J. Therapeutics 2002, 9(2), pages 111-7). The Examiner alleged that Nakatani *et al.* qualified as prior art under 35 U.S.C. § 102(e).

Applicant respectfully traverses the rejection. Since Nakatani *et al.* and the present application were, at the time the current invention was made, both owned by Boehringer Ingelheim International GmbH, under the provisions of 35 U.S.C. § 103(c), Nakatani *et al.* is not available as a reference under 35 U.S.C. § 103(a). Since the Examiner’s obviousness rejection depends on Nakatani *et al.*, the rejection has been overcome and all the pending claims are allowable. Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

Applicant submits that all the pending claims are allowable and respectfully solicits a Notice of Allowance for all of the pending claims. If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Respectfully submitted,

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